

Remarks

This amendment responds to the official action mailed September 24, 2010 and is submitted with a request for continued examination and the required fee.

Claims 1 and 5-14 are now pending. In the official action, the examiner for the first time has relied on US 5,169,237 – Domenig in a combination rejection with US 4,737,039 - Sekerich under 35 U.S.C. §103, including as applied to previous claim 4. Reconsideration is requested.

The subject matter of claim 4 has been copied into independent claim 1 and claim 4 is canceled. This subject matter defines the location of the radially protruding soft rib of the control roller. According to the invention as claimed, the soft rib is located at the region of the axial end of the control roller. See Figs. 3 and 4. The claimed subject matter is not met by Domenig, which does not teach a similarly located soft rib, and in any event is directed to a load-supporting roller as opposed to a roller that exclusively meters movement of a central rail between the carcass rail and the pull out rail of a three rail drawer pull arrangement. A combination of Domenig and Sekerich thus would not meet the invention as a whole defined in claim 1. The differences between claim 1 and the prior art are such that the subject matter claimed as a whole would not have been known or obvious to a person of ordinary skill in the art. Claim 1 as amended is allowable, as are the claims that depend directly or indirectly from claim 1.

Claim 10 was subject to an indication of allowable subject matter in the official action of June 2, 2010. However in the latest official action, claim 1 has been rejected under 35 U.S.C. §103 over Sekerich combined with official notice that designers sometimes choose to change the shape of spindles. This claim concerns the spindle carrying the roller being non-round, specifically shaped with an orientation. Applicant's non-round control roller spindle has a relatively larger diameter in the pull out direction. The control roller spindle is relatively narrower in diameter in the direction perpendicular to the pull out direction, between the carcass and pull-out rails. See Fig. 5, in which the pull-out direction is left and right. Claim 9 has similar

limitations of the spindle cross section departing from a round cross section in the specifically recited oriented manner defined in claims 9 and 10.

According to the official action, official action was taken of an alleged "practice of changing the shape of a spindle," and that applicant allegedly did not traverse that position. Reconsideration is requested. Applicant has indeed traversed the rejection and continues to traverse the examiner's position on which the rejection is based. There is no logically articulated reason to assert that the various references relied upon for non-round spindles, not a single one of which is oriented in any way relative to the pull out direction of drawer guides, would render obvious the invention of claims 9 and 10 as a whole. On the contrary, the stated grounds of rejection and its reliance on official notice fail to address the subject matter claimed as a whole, which is not met in the prior art and is not shown by any reasoning to be the result of a routine and expectedly beneficial change in shape.

The examiner's official notice that designers change the shape of things does not show logically that designers obviously change the shape of spindles carrying control rollers between carcass and pull out rails, in the oriented manner that is particularly and distinctly claimed. The cited references are circularly symmetrical. They are not oriented. Claims 9 and 10 recite a non-round spindle in the specific application of a drawer guide wherein the roller or tire that turns on the non-round spindle must pass around an oval or similar non-round shape that is oriented in a specifically stated way: The spindle has a wider diameter in the pull out direction than the spindle diameter perpendicular to the pull out direction between the carcass and pull out rails. There is no support in the official action for rejecting these claims as a whole. The examiner's reliance on official notice is effectively an assertion that all possible spindle shapes must be obvious, which is not true and moreover represents a failure of the official action to address all the structural and functional attributes of the invention claimed as a whole.

Claim 1 has been amended to better distinguish over the prior art as applied in the official action by incorporating the subject matter of claim 4. Contrary to the position in the official action, claim 1 as now including the subject matter of canceled

claim 4, is not met by the combination of aspects cited and is not shown to have been obvious.

The subject matter of former claim 4 now recited in claim 1 is that the soft body is arranged in a region of an axial end side of the control roller. Such a control roller is not shown or discussed in the cited documents. In the last Official Action, claim 4 was discussed in the rejection of claims 1, 4-11 and 13 under 35 U.S.C. §103 over a combination of US 4,737,039 - Sekerich and US 5,169,237- Domenig. Specifically, the examiner states at numbered paragraph 4 that Domenig teaches a soft body (8) arranged in a region of an axial end side of the control roller (1). Reconsideration is requested. There is no basis to assert that the combination of Sekerich and Domenig would be obvious or would result in the invention defined in amended claim 1 as a whole.

According to claim 1, the soft body of the control roller projects at least in part in a radial direction relative to the hard body; the soft body extends over only part of an axial extent of the hard body; and the soft body is part of the bearing portion of the control roller. In Domenig the soft rolling surface 8 meets those features, but it is not arranged in a region of an axial end side of the supporting and guide roller 1. Likewise, the molded-in elastic material 9 of the supporting and guide roller 1 of Domenig likewise does not meet the subject matter of claim 1 as amended because the elastic material 9 does not fulfill the above mentioned features of the soft body, including protruding radially and extending over a limited axial extent, defined in claim 1 as amended, as a whole. Therefore, Domenig alone or in combination with Sekerich does not meet the subject matter claimed as a whole.

According to applicant's claimed invention, the roller in question is a control roller as opposed to a supporting roller. Applicant's roller as claimed serves exclusively to synchronize the positions of relatively movable rails. The roller of Domenig is a supporting and guide roller, i.e., a roller that is expected to bear the weight of the drawer and its contents. Domenig's roller is not directed exclusively to synchronizing as in applicant's invention as claimed. In applicant's embodiments, structures other than the control roller support the weight (such as other rollers).

In Domenig, where roller 1 is not exclusively a control roller, the weight of the drawer supported on the roller will flatten the rib 8 into the groove that is provided for it, whereupon the hard roller surface 7 bears against the supported rail and there is a tendency for the roller to slip relative to the rail, interfering with even metering of the motion of the central rail relative to the carcass rail and the pull out rail. Control of the relative movement of the rails will then suffer. The weight bearing supporting function is also consistent with placing the soft rolling surface 8 in axial middle of the bearing surface of the supporting and guide roller 1, unlike the recital of claim 1 as amended.

In contrast to Domenig, applicant's control roller as claimed serves exclusively for synchronizing the position and movement of the central rail with a pulling-out and pushing-in operation of the drawer. Applicant's roller, including the soft body, does not support a drawer weight load and dependably prevents slippage between the roller and the rail, in part because the soft body is free of such a load supporting function.

Applicant's roller, unlike that of Domenig, is mounted on the central rail of a three rail structure including the carcass rail, the pull out rail and the central rail. The roller according to Domenig is mounted on a pullout rail. There is no basis to expect that the combination of elements would achieve beneficial results in an arrangement wherein the respective rails were already supported by rollers. If anything, the combination of Domenig and Sekerich would provide Domenig's soft rib 8 on the load supporting rollers, consistent with Domenig's own disclosure.

For these reasons, one cannot conclude that a routine combination of the prior art references would meet the invention claimed as a whole. If one sought to combine the references, the result would be the direct combination of the references and not a modification that is inconsistent with the references themselves. For these reasons, claim 1 and the claims depending from claim 1 are properly allowable over the prior art.

As mentioned above, independent claims 9 and 10 are also allowable. The examiner's assertion that official notice of the fact that spindle shapes are modified

does not justify the rejection when there is no example of a modified spindle shape that has the relative orientation claimed, i.e., with a wider diameter of the spindle in the pull out direction and a narrower diameter of the spindle disposed between the carcass and pull out rails. This orientation inherently causes a flexing of the roller tier on its spindle, which is unlike the cited prior art splines and the like wherein circularly symmetrical protrusions may add to friction but do not have any particular orientation aspect.

For the examiner to rely on official notice as the basis for this rejection is equivalent to taking official notice that innovative people make changes in their efforts to improve the function of mechanisms and therefore that all improved mechanisms are obvious. Such a position is wholly improper under *Graham v. John Deere*, *KSR v. Teleflex* and any number of judicial precedents. It is not correct to take official notice in a manner that simply sidesteps the need for any proper rejection to meet all the elements defined in a claim. Applicant requests that the rejections of claims 9 and 10 be withdrawn. These claims and the claims depending from them should be allowed.

This response advances prosecution by further defining claim 1 over the prior art, and by pointing out that the grounds of rejection of claims 9 and 10 are without merit and certainly have been traversed. Independent claims 1, 9 and 10 are allowable. The remaining claims depend directly or indirectly from the allowable independent claims and are allowable at least by virtue of their dependencies. Reconsideration and allowance are requested.

Respectfully submitted,

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